UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,185	05/20/2004	Marcel Joseph Louis Mampaey	Q81536	7244

23373   7590   12/24/2008
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
12/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *16 October 2008*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-10* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-10* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the pre-appeal brief filed on October 16, 2008.

Claims 1-10 are pending. Claims 1-10 represent method for selecting an application

sever, a related call session control network element, a related primary application

server and a related called user terminal.

2.   *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out
and distinctly claiming the subject matter which the applicant regards as his
invention.

Claims 3, 5 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

In claims 3, 5 and 9, Applicant use the term "adapted to" in line 13, 10 and 13,

respectively. Such term raises the limiting effect of the language in the claims. Examiner

construes that Applicant is not claiming what comes after "adapted to", since the means

function is just adapted to do something. Appropriate correction is required.

3.   *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 3, 5 and 9 are rejected under 35 U.S.C. 101 because they lack tangible result. the claimed invention is directed to non-statutory subject matter. It is not clear to Examiner what happens after the "CSCF receive a selection of at least one service application from the set of service application forwarded by the called party". Tangible result is needed.

4.   *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ejzak U.S. 6,954,654 in view of Hsu et al. U.S. 20040010473, further in view of Landherr et al. U.S. 6,880,156.

Ejzak teaches the invention substantially as claimed including provision of services in a communication system including an interworking mobile switching center (abstract).

As to claims 1, 3, 5 and 9, Ejzak teaches a method for selecting an Application Server in an Internet Protocol multimedia network (IMMN) upon reception of an Internet Protocol Multimedia call destined to a called party terminal (CDPT), said method comprising the step of:

a call session control network element (CSCF) (figure 3), and an IP multimedia call (column 2, lines 55-58);

said primary application server (AS.sub.PRIM), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a set of service applications for answering said incoming call, said set of service applications being determined in said analysis (column 13, lines 11-18, Ejzak discloses...the S-CSCF sends standard SIP signaling to one or more application servers in the network...the S-CSCF provides features and services for the UE indirectly through application servers (i.e. "analysis of an incoming IP multimedia call"). The PSTN delivers (414) phone calls destined for a UE ("call party terminal") that can be registered for service with an IMS (IP multimedia subsystem) to that IMS (i.e. "presenting the incoming IP multimedia call to a call party terminal"))

Ejzak fails to teach explicitly intercepting an Internet Protocol.

However, Hsu teaches rule-based packet selection, storage, and access method and system. Hsu teaches intercepting an Internet Protocol (paragraph [0072]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ejzak in view of Hsu to provide intercepting said incoming IP multimedia call in order to analyze the network traffic and to correctly bill the user for his network usage (paragraph [0010]).

Ejzak and Hsu fail to teach explicitly activating an application server.

However, Landherr teaches demand responsive method and apparatus to automatically activate spare servers. Landherr teaches activating an application server (column 2, lines 20-22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ejzak and Hsu in view of Landherr to provide upon intercepting said incoming IP multimedia call activating a dedicated primary application server (AS.sub.PRIM) in order to support the requesting server when the load exceed the threshold (abstract).

Ejzak fails to teach explicitly a selection of at least one service application from said set of service applications.

However, Hsu teaches a selection of at least one service application from said set of service applications (paragraph [0041]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ejzak in view of Hsu, further in view of Landherr to provide said call session control Network element (CSCF) receiving a selection of at

least one service application from said set of service applications forwarded by said
called party terminal (CDPT) in order to analyze use of services based on various
aspects of design of a service such as technical properties of a service, content of a
service, service quality, availability and usability.

As to claim 2, Ejzak teaches the method for selecting an Application Server
according to claim 1, characterized in that said method further comprises the step of:

said call session control network element (CSCF) based on said at least one
selected service application invoking at least one secondary Application Server
(AS1...ASn) corresponding to said at least one selected service application (column 16,
lines 1-9).

As to claim 4, Ejzak teaches the Call Session Control network element (CSCF)
according to claim 3, CHARACTERISED IN THAT said Call Session Control network
element (CSCF) further comprises a Secondary Application server invocation means
(SASIM), coupled with an input to an output of said Selection receiving means (SRM)
and adapted to activate based on said at least one selected service application at least
one secondary Application Server (AS1 . . . ASn) corresponding to said at least
one selected service application (column 16, lines 1-9).

As to claim 6, Ejzak teaches the Primary Application Server (AS.sub.PRIM)
according to claim 5, CHARACTERISED IN THAT said call presentation information

forwarding means (CPM) is adapted to forward said call presentation information of

said incoming IP multimedia call and/or said set of service applications for answering

said incoming call via an HyperText Transfer Protocol session (column 3, line 66 to

column 4, line 9).

As to claim 7, Ejzak teaches the Primary Application Server (AS.sub.PRIM)

according to claim 5, CHARACTERISED IN THAT said call presentation information

forwarding means (CPM) is adapted to forward said call presentation information of

said incoming IP multimedia call and/or said set of service applications for answering

said incoming call via an Wireless Application Protocol session (column 7, lines 19-26).

AS to claim 8, Ejzak teaches the Primary Application Server (AS.sub.PRIM)

according to claim 5, CHARACTERISED IN THAT said call presentation information

forwarding means (CPM) is adapted to forward said call presentation information of

said incoming IP multimedia call and/or said set of service applications for answering

said incoming call via said Call session control network element (CSCF) (column 9,

lines 4-11).

As to claim 10, Ejzak teaches the Called Party Terminal (CDPT) according to

claim 9, CHARACTERISED IN THAT said application presentation means (APM) is a

web-browser (column 3, lines 16-22, Ejzak discloses that the invention is designed to

use emerging internet standard such as SIP (i.e. text-based protocol that is based on

HTTP and MIME, which makes it suitable and very flexible for integrated voice-data applications. SIP is designed for realtime transmission, uses fewer resources and is considerably less complex than H.323. Its addressing scheme uses URLs and is human readable (i.e. "web browser"); for example: sip:john.doe@company.com) for IMS (IP multimedia subsystem) signaling for establishing a call).

6.   *Conclusion*

Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/El Hadji M Sall/

Examiner, Art Unit 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457